

# Notice of Allowability

Application No.

10/649,194

Examiner

Evelyn Huang

Applicant(s)

KANG ET AL.

Art Unit

1625

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to \_\_\_\_\_.
2. ☒ The allowed claim(s) is/are 1-8 and 14-22.
3. ☒ The drawings filed on 27 August 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

***EXAMINER'S AMENDMENT***

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Lappin on 10-13-2004. During the interview, the examiner suggested deleting claims 9-13, wherein the recited thermal events as a limitation fail to render these claims unobvious over the 6-(4-(3, 4 - difluorophenyl)-5-oxazolyl)-3-isopropyl 1,2,4, triazol[4,3-a]pyridine compound of Mclure (6696464, column 85, compound 30) or the 6-(4-(2,5-difluorophenyl)-5-oxazolyl)-3-isopropyl-1,2,4, triazol[4,3-a]pyridine of Dombroski (US 2004/092547, which is not prior art, but having the same assignee). The examiner also suggested amending claim 15 to be an independent claim incorporating the limitation of the canceled claim 10 to place the application in conditions for allowance.

The application has been amended as follows:

- a. Cancel claims 9-13.
- b. Claim 15,
  - Line 2, delete 'according to claim 10'.
  - Line 4, after 'and 17.0 ppm', insert – and having a melting endotherm at 172-175°C --.
- c. In the specification, page 1, below the title, insert – This application claims the benefit of provisional application No. 60/407158, filed on Aug. 30, 2002 --.

***REASONS FOR ALLOWANCE***

2. The following is an examiner's statement of reasons for allowance:
- Claims 1-8, 14-22 are allowed.

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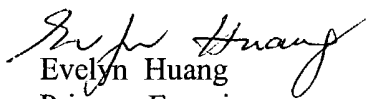
Mclure (6696464) generically discloses the anti-inflammatory triazolopyridinyl compound. 6-(4-(3, 4 - difluorophenyl)-5-oxazolyl)-3-isopropyl 1,2,4, triazol[4,3-a]pyridine is described on column 85, compound 30. Dombroski (US 2004/092547, having the same priority date of Aug. 20, 2002 as the instant) only describes a 6-(4-(2,5-difluorophenyl)-5-oxazolyl)-3-isopropyl-1,2,4, triazol[4,3-a]pyridine. The instant, however, is the crystalline forms A, B, C, D, or E of 6-(4-(2,5-difluorophenyl)-5-oxazolyl)-3-isopropyl-1,2,4, triazol[4,3-a]pyridine, each having specific powder X-ray diffraction patterns. Forms A and B each has specific single crystal x-ray-crystallographic perimeters. Form B further has characteristic C<sup>13</sup> ss-NMR chemical shifts pattern. Lacking is the motivation to modify the compound of Dombroski or Mclure to arrive at the instant crystalline forms A, B, C, D, or E.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evelyn Huang whose telephone number is 571-272-0686. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Evelyn Huang  
Primary Examiner  
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